

Christy L. Brandon (#4833)
BRANDON LAW FIRM, PLLC
P.O. Box 1544
Bigfork, MT 59911
Telephone: (406) 837-5445
Email: christy@brandonlawfirm.com

Chapter 7 Trustee

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA

IN RE:)	
)	
S & R INVESTMENTS, LLC,)	Case No. 21-90014-7
)	
Debtor.)	
_____)	

**MOTION TO SELL PROPERTY FREE AND CLEAR
OF LIENS AND INTERESTS; AND NOTICE**

COMES NOW the Chapter 7 Trustee pursuant to 11 U.S.C. §363(f)(2) and F.R.B.P. Rule 2002(a)(2) and states as follows:

1. The Trustee desires to sell to **RONALD PROUL AND NADEAN PROUL** property of this estate located at 106 Madison Street, Anaconda, Montana, and further described as follows:

Assessor's Parcel Number: 98000

Portions of Lots numbered one (1), two (2) and three (3) in Block Numbered Nineteen (19) in the Eastern Addition to the City of Anaconda, County of Deer Lodge, State of Montana. Beginning at the Northwest corner of tract (which is also the Northwest corner of Lot Numbered three (3) of Block Numbered Nineteen (19) of the Eastern Addition to the City of Anaconda, according to the official plat and survey now on file and of record in the office of the County Clerk and Recorder of said Deer Lodge County, Montana), thence South Seventy-six (76) degrees, twenty (20) minutes East along the North line of said Block Numbered Nineteen (19), a distance of 56-

25/100 feet to the Northeast corner of said tract, thence South Twenty- eight (28) degrees, Forty-three (43) minutes West, One Hundred forty-five (145) feet to the Southeast corner of the Tract, thence North Seventy-six (76) degrees, Twenty (20) minutes West along the North side of the alley in said Block Numbered Nineteen (19), a distance of 18-5/10 feet to the Southwest corner of the tract which is also the Southwest corner of said Lot Numbered Three (3) in said Block Numbered Nineteen (19)), thence North Thirteen(13) degrees, Forty (40) minutes East along the West side Lot Numbered Three (3), a distance of One Hundred Forty (140) feet to the point of beginning, according to the official plat and survey of the said Eastern Addition to the City of Anaconda, Montana, now on file and of record in the office of the County Clerk and Recorder of said Deer Lodge County, Montana.

AND,

Lots 1A and 2A according to Certificate of Survey No. 185-B, more particularly described as follows: a tract/parcel of land situated in the SW $\frac{1}{4}$ of Section #2, T.4N., R.11W., P.M.M. and being a portion of the original platted Lots #1, 2 and 3 of Block 19 of the Eastern Addition to Anaconda-Deer Lodge County, Montana.

(the "Anaconda Property"), according to the terms and conditions contained in the attached Buy-Sell Agreement which is summarized as follows:

- a. Purchase price of \$119,000.
- b. Closing Date: April 29, 2022.
- c. Sale is contingent upon (1) buyer's inspection, (2) buyer's receipt and approval of preliminary title commitment, (3) buyer obtaining hazard insurance, and (4) Bankruptcy Court approval.

2. A copy of the title commitment issued by First American Title Insurance Company on March 24, 2022 at 7:30 a.m. under Commitment/File No. 1037470-R is attached to this motion and shows the current charges, liens and encumbrances against the Anaconda Property. The Trustee desires to sell the Anaconda Property free and clear of the liens and interests showing under Exceptions 10, 13 and 14 pursuant to 11 U.S.C. §363(f)(2) with such interests to be paid as follows:

- a. Exception 10. Property taxes along with penalty and interest to the date of closing shall be paid in full from the sale proceeds as an administrative expense of this estate.

- b. Exceptions 13 and 14. Granite Mountain Bank, Inc. a/k/a Flint Creek Valley Bank has indicated its consent to sale and agreement to release its liens against the Anaconda Property in exchange for payment in full at closing.

3. The Trustee further seeks approval that at closing, the closing agent shall pay the realtor's court approved compensation and the normal and usual closing costs such as those for the title insurance premium, title closing fees and recording fees, as administrative expenses of this estate, with net sale proceeds to be paid to the Trustee for administration in this estate.

4. The net to the estate from the sale proceeds of the Subject Property is expected to be approximately \$8,758, calculated as follows:

SALES PRICE:	\$119,000
Granite Mountain Bank	-\$99,902
Realtor's Commission	-\$7,140
Estimated Property Taxes and Closing Costs	<u>-\$3,200</u>
ESTIMATED NET TO THE ESTATE:	\$8,758

Trustee's compensation related to this sale will not exceed 50% of the net to the estate.

No taxable gain is anticipated by the estate from this sale.

5. The sale price is a full price offer and the Trustee believes it is fair and reasonable. The Anaconda Property is a commercial lot consisting of a paved lot of approximately 10,020 square feet with a small outbuilding of about 320 square feet. The Trustee understands that the Debtor purchased the property for \$205,000 in 2006. It is scheduled as having a value of \$79,000, has a value of \$49,500 on the Montana Cadastral Property Record Card, and is valued by Granite Mountain Bank in its proof of claim as \$120,000. Prior to this case being filed, the Debtor listed the property at \$125,000 from November 8, 2019, until the involuntary petition was granted in March of

2021. The Trustee and the estate's realtor, Gina Ossello, listed the property on May 4, 2021, at \$125,000 and dropped the list price to \$119,000 on July 1, 2021. The Trustee's marketing window for the Subject Property lapses on April 29, 2022, under the terms of the Stipulation entered with Granite Mountain Bank at ECF 139 and approved by the Court by Order at ECF 142. Based on the above, the Trustee believes this is a fair sales price for the property with the best return likely for the estate.

6. WHEREFORE, the Trustee requests that the Court authorize the Trustee to sell the Subject Property to Ronald Proul and Nadean Proul, pursuant to the terms and conditions contained above, and for such other and further relief as the Court deems proper.

DATED this 6th day of April, 2022.

/s/ Christy L. Brandon
Christy L. Brandon
Chapter 7 Trustee

NOTICE OF OPPORTUNITY TO RESPOND AND REQUEST A HEARING

If you object to this motion you must file a written responsive pleading and request a hearing within twenty-one (21) days of the date of filing. The responding party shall schedule the hearing on the motion at least twenty-one (21) days after the date of the response and request for hearing and shall include in the caption of the responsive pleading in bold and conspicuous print the date, time and location of the hearing by inserting in the caption the following:

NOTICE OF HEARING

Date: _____
Time: _____
Location: _____

If no objections are timely filed, the Court may grant the relief requested as a failure to respond by any entity shall be deemed an admission that the relief requested should be granted.